

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ISAIAH HUMPHRIES,

Plaintiff,

v.

THE PENNSYLVANIA STATE  
UNIVERSITY; JAMES FRANKLIN; and  
DAMION BARBER,

Defendants.

Case No.: 4:20-CV-00064-MWB  
(Judge Matthew W. Brann)

JURY TRIAL DEMANDED

**DEFENDANTS THE PENNSYLVANIA STATE UNIVERSITY  
AND JAMES FRANKLIN’S MOTION TO DISMISS  
AMENDED COMPLAINT PURSUANT TO FED. R. CIV. P. 12(B)(6)**

Defendants The Pennsylvania State University (the “University”) and James Franklin (“Franklin”) move this Court to dismiss Counts I, II, IV, V, and VIII of Plaintiff Isaiah Humphries’s Amended Complaint. As set forth in the contemporaneously-filed brief, Humphries fails to assert that either the University or Franklin could or did violate state law sufficient to support his Count I and II claims for negligence per se; fails to establish requisite elements of negligence against the University or Franklin sufficient to support his Counts IV and V claims for negligence; and fails to assert several essential elements of his Count VIII claim for negligent infliction of emotional distress as to the University or Franklin.

In support of their Motion, the University and Franklin attach hereto: (a) as Exhibit A, a collection of documents confirming that the matriculation date of Humphries's teammates is "generally known within" this Court's "territorial jurisdiction" and otherwise "readily determined from sources whose accuracy cannot reasonably be questioned," *see* Fed. R. Evid. 201(b); and (b) as Exhibit B, a document reflecting Humphries's self-published announcement of his withdrawal, which is integral to Humphries's Complaint.

The University and Franklin respectfully request that this Court enter the attached proposed Order dismissing Plaintiff Isaiah Humphries's claims against them with prejudice.

Date: April 7, 2020

**JONES DAY**

/s/ Matthew A. Kairis

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*Attorneys for Defendants The Pennsylvania  
State University and James Franklin*

## **CERTIFICATION OF CONCURRENCE AND NONCONCURRENCE**

I hereby certify that, pursuant to L.R. 7.1, counsel for the moving Defendants The Pennsylvania State University and James Franklin attempted to seek concurrence in this Motion from counsel from each other party to this litigation. Counsel for Plaintiff, Steven F. Marino, Esq., was unavailable to discuss the moving Defendants' request; however, in denying concurrence to the moving Defendants' initial Motion to Dismiss, Mr. Marino stated that he did not intend to consent to dismissal of his client's case by Rule 12(b) Motion. Counsel for Damion Barber, Anthony De Boef, concurs in this Motion.

/s/ Matthew A. Kairis

Matthew A. Kairis